Calendar No. 131

101ST CONGRESS *1st Session*	SENATE	REPORT 101-56

NOMINATION OF JAMES B. BUSEY, TO BE ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

OF THE

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

S. 1077

JUNE 20 (legislative day, JANUARY 3), 1989.—Ordered to be printed

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NOMINATION OF JAMES B. BUSEY TO BE ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION

JUNE 20 (legislative day, JANUARY 3), 1989.—Ordered to be printed

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Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 1077]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1077) to authorize the President to appoint Adm. James B. Busey to the Office of Administrator of the Federal Aviation Administration, having considered the same, reports favorably thereon and recommends that the bill do pass.

PURPOSE OF THE BILL

The bill, S. 1077, allows the appointment of Adm. James B. Busey to serve as Administrator of the Federal Aviation Administration [FAA], waiving the statutory requirement that this position be held by a civilian. The waiver is needed to allow Admiral Busey to retain his status as a retired officer in the U.S. Navy.

BACKGROUND AND NEEDS

James B. Busey, who has been nominated by President Bush to serve as FAA Administrator, recently retired as an Admiral in the U.S. Navy after more than 37 years of service. Under section 106 of title 49, United States Code, the FAA Administrator must be a civilian, having no ties to the military. Admiral Busey has requested a legislative waiver of this prohibition in order that he may retain his status as a retired military officer while serving as Administrator, thus allowing him to retain eligibility under his retirement plan and an opportunity to participate in the Survivors' Benefit Plan.

Since 1958, when the FAA was established, there have been four previous attempts either to waive the prohibition against military personnel as Administrator, as proposed in this case, or to reinstate the military commission that had been resigned by an individual prior to being confirmed as Administrator. The most recent was in 1984, when legislation was enacted for Navy Vice Adm. Donald Engen, enabling him to retain his military commission while serving as FAA Administrator (P.L. 98–256).

SUMMARY OF MAJOR PROVISIONS

S. 1077 authorizes the President to appoint James B. Busey to the position of FAA Administrator without affecting the status, rank, and grade which he holds on the retired list of the U.S. Navy. During the time in which he serves as Administrator, Admiral Busey's retired pay will be reduced according to a formula established under subchapter IV of chapter 55 of title 5, U.S. Code (formerly the Dual Compensation Act, P.L. 88–448). The bill also provides that Admiral Busey shall not be subject to any supervision, control, or restriction by the military while serving as Administrator.

LEGISLATIVE HISTORY

S. 1077 was introduced by Senator Ford on May 18, 1989, and has been cosponsored by Senators McCain and Dixon. A full committee hearing was held to consider Mr. Busey's nomination and S. 1077 on June 14, 1989.

On June 20, 1989, the Committee met in open executive session to consider S. 1077. The Committee then, without objection, ordered the bill reported.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 20, 1989.

Hon. ERNEST F. HOLLINGS,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1077, a bill to authorize the President to appoint Adm. James B. Busey to the Office of Administrator of the Federal Aviation Administration, as ordered reported by the Senate Committee on Commerce, Science, and Transportation, June 20, 1989.

CBO estimates that no cost to the Federal Government or to State or local governments would result from enactment of this bill. S. 1077 would waive the requirement that the Administrator of the Federal Aviation Administration be a civilian and allow the President to appoint as Administrator Adm. James B. Busey, a retired officer of the United States Navy.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mitchell Rosenfeld, who can be reached at 226-2860.

ROBERT D. REISCHAUER,
Director.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation.

The bill, as reported, allows Admiral Busey to serve as FAA Administrator while retaining his status and rank as a military officer on the retired list of the U.S. Navy. It will have no effect on the number of individuals regulated, or the personal privacy of such persons. No increase in the amount of paperwork will result from enactment of this bill, nor will it have any economic impact.

SECTION-BY-SECTION ANALYSIS

Section 1

Section 1 authorizes the President, notwithstanding section 106 of title 49, United States Code, or any other provision of law, acting by and with the advice and consent of the Senate, to appoint Adm. James B. Busey to the Office of Administrator of the FAA. Admiral Busey's appointment to, acceptance of, and service in that Office shall in no way affect the status, rank, and grade which he holds as an officer on the retired list of the U.S. Navy, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade. The exception to this is to the extent that subchapter IV of chapter 55 of title 5, United States Code, formerly known as the Dual Compensation Act (P.L. 88-448), affects the amount of retired pay to which he is entitled during his service as Administrator. So long as he serves as Administrator, Admiral Busey shall receive the compensation of the Office of Administrator at the rate which would be applicable if he were not an officer on the retired list of the U.S. Navy, shall retain all emoluments, perquisites, rights, privileges, and benefits incident to arising out of such status, office, rank, or grade, and shall continue to receive the retired pay to which he is entitled by law, subject to the provisions on dual compensation.

Section 2

Section 2 provides that in his performance as Administrator of the FAA, Admiral Busey shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were not an officer on the retired list of the U.S. Navy.

Section 3

Section 3 states that nothing in this Act shall be construed as approval by the Congress of any future appointments of military persons to the Office of Administrator of the FAA.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that the bill as reported would make no change to existing law.

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